'07 CIV 4113

JUDGE STANTON

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UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

CHINESE AUTOMOBILE DISTRIBUTORS OF AMERICA, LLC, a limited liability company, individually and, with respect to certain claims, in a derivative capacity, Plaintiff, v. MALCOLM BRICKLIN, an individual; JONATHAN BRICKLIN, an individual; BARBARA BRICKLIN JONAS, an individual; MICHAEL JONAS, an individual; SANIA TEYMENY, an individual; SCOTT GILDEA, an individual; and VISIONARY VEHICLES, LLC, a limited liability company; Defendants.	Civil Action No. 07-cv-4113 (LLS) ECF CASE **VERIFIED COMPLAINT** May 24, 2007

Plaintiff Chinese Automobile Distributors of America, LLC ("CADA") ("Plaintiff"), by its attorneys McCarter & English, LLP, alleges as its Complaint against Defendants Malcolm Bricklin, Jonathan Bricklin, Barbara Bricklin Jonas, Michael Jonas, Scott Gildea, and Visionary Vehicles, LLC (collectively "Defendants") the following:

NATURE OF THIS ACTION

1. This action arises from the fraud and misdeeds of Malcolm Bricklin, members of his family and associates, in connection with raising and spending millions of dollars in connection with a proposed business venture to import and distribute in the United States automobiles manufactured in China. As more fully described below, this effort was permeated with fraud in violation of the Securities and Exchange Act of 1934, misappropriation of corporate funds, and corporate waste, perpetrated by Defendants against Plaintiff and other investors to their great detriment and the grievous injury of the business venture itself.

2. Plaintiff is a limited liability company formed under the laws of the State of Delaware with its principal place of business located at 1648 Plaza Lane, Allentown PA, 18104. CADA is controlled by Bruce and David Rothrock, who are pre-eminent automobile dealers in Eastern Pennsylvania.

3. Upon information and belief, Defendant Malcolm Bricklin is a resident of the State of New York residing in Manhattan. Malcolm Bricklin is an international automobile executive and Chief Executive Officer and Chairman of the Management Board of Visionary Vehicles, LLC.

4. Defendant Visionary Vehicles, LLC is a limited liability company formed under the laws of the State of Delaware with its principal place of business located at 172 Duane Street, New York, New York, 10013 (hereinafter "Visionary Vehicles"). Visionary Vehicles has been and is controlled by Bricklin and his family and associates.

5. Upon information and belief, Defendant Jonathan Bricklin is a resident of the State of New York residing in Manhattan. Jonathan Bricklin is Malcolm Bricklin's son and received

hundreds of thousands of dollars from Visionary Vehicles in supposed compensation for various alleged services.

6. Upon information and belief, Defendant Barbara Bricklin Jonas is a resident of the State of Arizona residing at 7349 Via Paseo Del Sur, Suite 515, Scottsdale, Arizona 85258. Barbara Jonas is Malcolm Bricklin's sister and a member of the Management Board of Visionary Vehicles, or was a member at the time of the frauds and misdeeds set forth in this complaint. Ms. Jonas has been responsible for handling much of Visonary Vehicle's finances.

7. Upon information and belief, Defendant Michael Jonas is a resident of the State of Arizona residing at 7349 Via Paseo Del Sur, Suite 515, Scottsdale, Arizona 85258. Michael Jonas is married to Barbara Jonas and, accordingly is Malcolm Bricklin's brother-in-law. Upon information and belief, Mr. Jonas provided legal and other advice to Malcolm Bricklin throughout the events described herein.

8. Upon information and belief, Defendant Sania Teymeny is a resident of the State of Florida residing at 5555 North Ocean Blvd., #52, Ft. Lauderdale, Florida 33308. Defendant Teymeny is Malcolm Bricklin's companion and has had a "no show" job on the Visionary Vehicles payroll. Upon information and belief, her son Jordan has also been on the payroll of Visionary Vehicles.

9. Upon information and belief, Defendant Scott Gildea is a resident of the State of New York. Defendant Gildea is Malcolm Bricklin's personal accountant and the corporate accountant for Visionary Vehicles. Upon information and belief, Defendant Gildea was responsible for, or participated in, the improper accounting described below.

JURISDICTION AND VENUE

10. This court has federal question jurisdiction over this controversy, pursuant to 28 U.S.C. § 1331 and 15 U.S.C. § 78aa, because it is a civil action arising under the laws of the United States, including the 1934 Securities and Exchange Act, with an amount in controversy exceeding seventy-five thousand ($75,000.00) dollars, exclusive of interest and costs.

11. Venue is proper in the Southern District of New York, pursuant to 28 U.S.C. 1391(a), because Malcolm Bricklin and Visionary Vehicles are residents in Manhattan and a substantial part of the events giving rise to these claims occurred in this judicial district. Further, at all relevant times, all defendants were members, agents, servants, and/or employees of Visionary Vehicles, in which the Plaintiff invested.

FACTUAL BACKGROUND

The Formation of Visionary Vehicles

12. The Plaintiff is an investor in Visionary Vehicles.

13. Visionary Vehicles is a limited liability company formed by Malcolm Bricklin for the purported purpose of partnering with Chinese automobile manufacturers. The goal of Visionary Vehicles was to provide North American consumers with luxury vehicles at a substantial discount off of the price of existing European and Asian luxury models such as Mercedes-Benz, BMW, Jaguar, and Lexus. Trading on his colorful reputation as an automotive entrepreneur, Bricklin raised millions of dollars from investors in the United States

14. In December 2004, Visionary Vehicles entered into a letter of intent to form a joint venture with Chery Automobile Company ("Chery"), an automobile manufacturer in China.

Pursuant to their agreement, Chery would manufacture the automobiles in accordance with specifications and design guidelines of Visionary Vehicles and its agents.

15. Visionary Vehicles would import the vehicles and oversee the distribution. To that end, Visionary Vehicles said it planned to create a dealer network of 250 dealers who would sell the 250,000 cars that Visionary Vehicles said it would bring to the United States in its first year.

16. Pursuant to Visionary Vehicle's plan for its dealer network, a dealer would become part of the network by making an investment of $2 million. In exchange for this investment, each dealer supposedly would own a Territory and receive shares or "Units" in Visionary Vehicles.

17. The Visionary Vehicles/Chery joint venture appeared to be an attractive investment opportunity. Tim Ciasulli, CEO of Planet Honda and Head of the Visionary Vehicles Dealer Board, told The Auto Channel on or around December 1, 2005 that investing in the Chery/Visionary Vehicles venture would be like buying Honda or Toyota stock: "This is an opportunity that Detroit never offered any dealer before. Our investment dollars is not just about owning a territory, it's about owning a piece of Visionary Vehicles too. Their plans call for a million cars a year in five years. That is the kind of stock I want to own, especially since I have real input into the design, product content, pricing, and marketing strategies." Ciasulli also said: "I was in my hotel room in China when the BBC announced that General Motors was cutting 30,000 workers, 25 per cent of their workforce. If I was not a part of the Chery/Visionary Vehicles venture, I would have felt despair for the auto industry in the United States. Now, all I can think about is that this is the golden opportunity of a lifetime."

18. On or about October 21, 2005, Plaintiff invested $2,000,000 (two million dollars) with Visionary Vehicles ("First Investment"). In exchange for such investment, CADA received approximately 800,000 Units in Visionary Vehicles, as well as several sales territories.

19. In April, 2006, financier George Soros committed $200 million in escrow to enable Visionary Vehicles to finance the joint venture, subject to due diligence.

The Fraud

20. Throughout the period from December, 2005 through February, 2006, in order to induce Plaintiff to make additional investments in Visionary Vehicles, Malcolm Bricklin made the following representations to Bruce and David Rothrock:

a. The relationship between Malcolm Bricklin and Chery was very strong. Chery credited Malcolm Bricklin, Visionary Vehicles, and the publicity surrounding the joint venture, for much of Chery's success and growth in 2005. Chery preferred to deal with Malcolm Bricklin rather than any other automobile manufacturer and, therefore, Chery would extend the time required to fund the joint venture beyond the original deadline by which funding had to be obtained.

b. Visionary Vehicles was successfully selling the Territories and had commitments of $50,000,000 (fifty million dollars). However, Visionary Vehicles needed an additional $2,000,000 (two million dollars) to survive until the joint venture with Chery was formed and approved.

c. Visionary Vehicles required additional funding to make payroll. If Visionary Vehicles was unable to meet its payroll demands, Visionary Vehicles would lose important personnel who would be instrumental in obtaining the exclusive distribution agreement with Chery.

d. Visionary Vehicles was in danger of filing for bankruptcy. If Visionary Vehicles did file for bankruptcy, Plaintiff could lose its First Investment.

21. As a result of the aforementioned representations and relying on the truth thereof, CADA made an additional investment in the total amount of $2,000,000 (two million dollars) ("Additional Investment"). Specifically, Plaintiff invested $1,000,000 (one million dollars) on or about February 21, 2006; and another $1,000,000 (one million dollars) on or about March 17, 2006 in exchange for more Units and additional territories.

22. The aforementioned representations were false and, upon information and belief, were known to be false by Bricklin when made by him for the purpose of inducing the Additional Investment by CADA in reliance upon the truth of the representations. Upon information and belief, and as more fully set forth below, the aforementioned statements were false because, among other things:

a. Visionary Vehicles raised far less than $50 million in commitments from investors; and

b. Visionary Vehicles was in financial difficulty not because of the necessity of keeping important personnel on the payroll, but because Visionary Vehicles was being systematically looted by Malcolm Bricklin and the other Defendants.

The Joint Venture Collapses

23. Upon information and belief, in the summer of 2006, Malcolm Bricklin rejected the financing arrangement with Mr. Soros because of Bricklin's unwillingness to give Soros a majority interest in the venture, as provided for in the written agreement with Mr. Soros.

24. Although another potential source of funding was located, on or about November 23, 2006, Mr. Bricklin and Visionary Vehicles announced that the joint venture with Chery was

canceled, again, upon information and belief, because Mr. Bricklin was unwilling to give control of the venture to the financing party.

25. Contrary to its statements at the time, Visionary Vehicles had not signed up even fifty dealers out of a projected network of 250.

Bricklin and His Family Loot Visionary Vehicles

26. Subsequently, it became apparent that, upon information and belief, Defendant Bricklin and the other Defendants engaged in corporate malfeasance and self-dealing including, without limitation, the following:

a. The general ledgers of Visionary Vehicles indicate that in excess of $250,000 in cash was withdrawn from company cash accounts between 2004 and September 30, 2006. The majority of these withdrawals were made using ATM cards, without sufficient documentation to support such withdrawals.

b. Visionary Vehicles made payments of $4.9 million in related transactions. For example, in excess of $2.4 million was paid to EV America and North American Sales, which appear to be related to Malcolm Bricklin. The contract between North American Sales ("NAS") and Visionary Vehicles was signed by Malcolm Bricklin on behalf of both parties. Upon information and belief, NAS was a Nevada corporation formed by or on behalf of Malcolm Bricklin. Upon information and belief, Bricklin and other Defendants caused ten percent of all money raised from investments to be diverted to NAS. Upon information and belief, this arrangement was not disclosed to investors, although it was mentioned in a draft of a second private placement memorandum, which was never used or issued by Visionary Vehicles.

c. Other significant payments were made to individuals that may be related to Malcolm Bricklin, including:

1. Doczilla Inc., a company apparently controlled by Jonathan Bricklin, received a consulting fee of up to $110,000 per month, purportedly for the production of a video documentary and other services. Upon information and belief, despite this financing, Doczilla and not Visionary Vehicles was given ownership of the documentary.

2. MR Group, a company apparently related to Barbara Bricklin [Jonas] was paid a consulting fee on retainer of $20,000 per month for business development and management consulting services.

3. Upon information and belief, Sania Tenymeny, Malcolm Bricklin's companion, was on the payroll of Visionary Vehicles despite having no corporate duties.

c. Visionary Vehicles' general ledger from 2004 to September 30, 2006 reflects expenses in excess of $130,000 related to promotional gifts and materials without explanatory documentation, including:

1. Approximately $2,500 spent at "Bloomy's";

2. Approximately $2,500 spent at Men's Suits on 59th;

3. Approximately $1,200 spent at Lucky Brand jeans.

d. In December of 2005, a journal entry was made to the books of Visionary Vehicles, which increased expenses by approximately $800,000, without sufficient documentation to support this transaction.

e. Visionary Vehicles' general ledger as of September 30, 2006 reflected approximately $206,000 of expenses categorized as "Wellness" which include the following questionable amounts (i) $110,000 paid to Diapulse Corp. of America ("Diapulse") for "10 machines." Diapulse apparently manufactures and markets a proprietary medical system for the treatment of postoperative edema and pain in acute and chronic wounds; and (ii) in excess of $37,000 paid to Dr. Michael Reed for services and travel in connection with "Wellness".

f. Documents related to the American Express cards used by Visionary Vehicles personnel indicate a variety of suspect transactions, without documentation or explanation, including the purchase of a bicycle for $3,990.

27. The Plaintiff's investment of $4,000,000 (four million dollars) in Visionary Vehicles is now worthless.

COUNT ONE: FRAUD
(Against Defendants Malcolm Bricklin and Visionary Vehicles)

28. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 27 above as if set forth herein.

29. Upon information and belief, on behalf of Visionary Vehicles, Malcolm Bricklin knowingly or recklessly made or disseminated materially false and misleading statements concerning the performance and financial position of Visionary Vehicles and the proposed joint venture with Chery to induce Plaintiff to make the Additional Investments in Visionary Vehicles.

30. Plaintiff reasonably and justifiably relied on Malcolm Bricklin's materially false and misleading statements and omissions, causing Plaintiff to act to its detriment upon such statements and omissions.

31. The materially false and misleading statements and omissions of Malcolm Bricklin have caused Plaintiff to suffer damages of at least two million dollars ($2,000,000) and as may be determined at trial.

COUNT TWO: AIDING AND ABETTING FRAUD
(Against Defendants Barbara Jonas, Michael Jonas, and Scott Gildea)

32. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 31 above as if set forth herein.

33. Defendants Barbara Jonas, Michael Jonas, and Scott Gildea knowingly or recklessly provided substantial assistance to the frauds committed by Malcolm Bricklin

34. Defendants Barbara Jonas, Michael Jonas, and Scott Gildea knew or reasonably should have known that the assistance they provided to the frauds committed by Malcolm Bricklin would have the consequence of harming Plaintiff.

35. As a result of these defendants' aiding and abetting the fraudulent conduct of Malcolm Bricklin, Defendants Barbara Jonas, Michael Jonas, and Scott Gildea caused Plaintiff to suffer damages in an amount to be determined at trial.

COUNT THREE: VIOLATION OF SECTION 10(B)(5) OF THE SECURITIES AND EXCHANGE ACT OF 1934
(Against Malcolm Bricklin and Visionary Vehicles)

36. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 35 above as if set forth herein.

37. Upon information and belief, on behalf of Visionary Vehicles, Malcolm Bricklin knowingly or recklessly made or disseminated materially false and misleading statements concerning the financial position of Visionary Vehicles and the proposed joint venture with Chery through the use of interstate commerce.

38. Malcolm Bricklin, on behalf of Visionary Vehicles, intentionally made such materially false and misleading statements to induce Plaintiff to make the Additional Investments in Visionary Vehicles.

39. Plaintiff reasonably relied on such materially false and misleading statements and made Additional Investments in Visionary Vehicles to its detriment.

40. Had Plaintiff known the true financial condition of Visionary Vehicles and the facts concerning the proposed joint venture with Chery, Plaintiff would not have made Additional Investments, which have since been depleted.

COUNT FOUR: MISAPPROPRIATION OF CORPORATE FUNDS
(Against All Defendants)

41. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 40 above as if set forth herein.

42. This count is brought by Plaintiff on its own behalf and derivatively on behalf of the investors in Visionary Vehicles. Demand upon the Management Board of Visionary Vehicles to seek redress from the individual Defendants would be futile and not likely to succeed because:

a. Defendant Bricklin and the other Defendants control a majority of the voting power of the company;

b. Defendants' self-interest, unfair dealing and willful misconduct relating to the misappropriation of funds would require the relevant members of the Management Board to sue themselves.

43. The Plaintiff fairly and adequately represents the interests of all shareholders and members similarly situated in enforcing the rights of the limited liability company.

44. As a result of Defendants' actions in, *inter alia* (a) making large cash withdrawals for unsubstantiated purposes, (b) using corporate funds for personal travel and entertainment, (c) paying related parties unreasonable fees in connection with consulting agreements, (d) making large expenditures for "Wellness" absent appropriate corporate approval, (e) claiming large expenditures as "promotional gifts" without sufficient justification for such expenditures, and (f) diverting ten percent of all investments to an unrelated account, Defendants have diverted significant corporate funds and assets to themselves.

45. As a result of this diversion of corporate funds and assets, Defendants are liable to Plaintiff and the other investors for damages in an amount to be determined at trial.

COUNT FIVE: CORPORATE WASTE
(Against All Defendants)

46. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 45 above as if set forth herein.

47. This count is brought by Plaintiff on its own behalf and derivatively on behalf of the investors in Visionary Vehicles. Demand upon the Management Board of Visionary Vehicles to seek redress from the individual Defendants would be futile and not likely to succeed because:

a. Defendant Bricklin and the other Defendants control a majority of the voting power of the company;

b. Defendants' self-interest, unfair dealing and willful misconduct relating to the misappropriation of funds would require the relevant members of the Management Board to sue themselves.

48. The Plaintiff fairly and adequately represents the interests of all shareholders and members similarly situated in enforcing the rights of the limited liability company.

49. As a result of Defendants' actions in, *inter alia* (a) making large cash withdrawals for unsubstantiated purposes, (b) using corporate funds for personal travel and entertainment, (c) paying related parties unreasonable fees in connection with consulting agreements, (d) making large expenditures for "Wellness" absent the appropriate corporate approval, (e) claiming large expenditures as "promotional gifts" without sufficient justification for such expenditures, and (f) diverting ten percent of all investments to an unrelated account, Defendants have wasted significant corporate funds and assets.

50. As a result of this waste of corporate funds and assets, Defendants are liable to Plaintiff and the other investors for damages in an amount to be determined at trial.

COUNT SIX: BREACH OF FIDUCIARY DUTY
(Against Defendant Malcolm Bricklin)

51. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 50 above as if set forth herein.

52. As dominant shareholder and member of the Management Board, Malcolm Bricklin owed Plaintiff fiduciary duties of due care, loyalty, fair dealing, good faith, reasonable inquiry and supervision.

53. Malcolm Bricklin violated and breached his fiduciary duties owed to Plaintiff by, *inter alia* (a) knowingly and recklessly making materially false and misleading statements concerning the performance and financial condition of Visionary Vehicles and the proposed joint venture with Chery, (b) making large cash withdrawals for unsubstantiated purposes, (c) using corporate funds for personal travel and entertainment, (d) paying related parties unreasonable fees in connection with consulting agreements, (e) making large expenditures for "Wellness" absent the appropriate corporate approval, (f) claiming large expenditures as "promotional gifts" without sufficient justification for such expenditures; and (g) diverting ten percent of all investments to an unrelated account.

54. As a result of Malcolm Bricklin's breaches of fiduciary duty, Plaintiff has suffered damages in an amount to be determined at trial.

JURY TRIAL DEMANDED

Plaintiff demands a jury trial for all Counts so triable herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff seeks the following relief:

a. an accounting,

b. rescission and return of Plaintiff's investment,

c. damages,

d. reasonable attorneys' fees in an amount to be determined at trial,

e. punitive damages in amount not less than $100,000,000,

f. and such other and further relief as this Court deems just and proper against Defendants.

Dated: May 24, 2007

McCARTER & ENGLISH, LLP
Attorneys for Plaintiff

By: ______________________________

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VERIFICATION

STATE OF PENNSYLVANIA)
: ss
COUNTY OF LEHIGH)

I, DAVID ROTHROCK, being duly sworn, state the following: I am a Managing Member of Chinese Automobile Distributors of America, LLC, ("CADA"), a limited liability company and plaintiff in this action; that I am authorized to sign the foregoing Verified Complaint on behalf of CADA; that I have read the foregoing Verified Complaint and know the content thereof; that the contents are true to my own knowledge except as to matters therein stated upon my information and belief; and that as to those matters, I believe them to be true.

David Rothrock

Subscribed and sworn to before me
On this 25 day of May, 2007

Michele Bollinger
Notary Public

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
MICHELLE BOLLINGER, Notary Public
South Whitehall Twp., Lehigh County
My Commission Expires Aug. 3, 2010